

SECTION 102 BIDDING REQUIREMENTS AND CONDITIONS

102.01 JOINT-VENTURE BIDS. Execute a "Declaration of Joint Venture and Power of Attorney" form available from the Department's Contract Plans Section to submit bid packages for highway construction as a joint venture. Designate the business name of the joint venture and specifically authorize a person to execute all bid packages and contracts with the Commission on behalf of all individuals and legal entities of the joint venture. Authorize this person to receive all monies due under the Contract and issue binding receipts and releases with the Department. File joint-venture affidavits with the Department's Contract Plans Section in Helena not later than 3:00 p.m. the workday preceding the date of the bid letting.

Joint venture firms do not need to separately incorporate.

102.02 CONTENTS OF BID PACKAGE. The bid package ordinarily includes the following:

- A. Transmittal Sheet.
- B. Instructions To Bidders.
- C. Disadvantaged Business Enterprise (DBE) Requirements.
- D. Equal Opportunity Clause Certification.
- E. Estimated Quantity Sheets.
- F. Contract Proposal.
- G. Acknowledgment Of Receipt Of Addendum.
- H. Special Provisions.
- I. Supplemental Specifications.
- J. Wage Rate Schedules.
- K. Contract Plans.
- L. Other documents included by reference but not attached.
- M. FHWA Form 1273 - Required Contract Provisions for Federal-Aid Construction Contracts when applicable.

Documents submitted with or attached to the proposal form are a part of the bid. Do not detach or alter attached documents when the bid package is submitted.

102.03 VACANT.

102.04 ISSUANCE OF PROPOSALS. The Department reserves the right to refuse to issue a proposal form to a bidder for any of the following reasons:

- A. Uncompleted work that the Department determines might hinder or prevent the prompt completion of additional work;
- B. Default under previous contracts;

- C. Failure to reimburse the Department for overpayment's made on any contract or contracts after written notification of the overpayment's that are due;
- D. Failure to pay, or satisfactorily settle, all bills due for labor and material on any Contract in force at the time of issuance of proposals;
- E. Unsatisfactory performance on previous or current Contract(s);
- F. Misconduct that is of such a serious nature as to adversely affect the Contractor's ability to perform future work;

Request bid package and instructions to bidders from the Department.

Pay the Department the sum stated in the Invitation for Bids for each copy of the bid package and set of full size plans requested.

102.05 QUANTITIES OF WORK IN THE BID PROPOSAL. Submit unit bid prices for the estimated quantities.

Estimated quantities may be increased or decreased under the Contract.

Payment will be made for the actual quantities of work performed and accepted or materials furnished under the Contract.

102.06 EXAMINATION OF DOCUMENTS AND SITE OF WORK. Examine the site of the proposed work including existing field staking and documents before submitting a bid proposal. Submitting a bid proposal is an affirmative statement by the bidder that the bidder has examined the site and is satisfied with the conditions to be encountered in performing the work and the requirements of the bid package.

The Department is not bound by any statement or representation concerning conditions or description of the work unless included in the bid package. Do not rely on oral explanations or instructions given by Department employees or agents before award of the Contract. Accept these as non-binding oral explanations or instructions and relying on them is solely at the Bidder's risk.

Immediately submit any request for an explanation of the meaning or interpretation of the bid package in writing to the Engineer.

The records of any subsurface investigations conducted by the Department are available for inspection as a public document. Inspect available records at the Materials Bureau or Bridge Bureau in Helena or the District where the project is located.

The records of subsurface investigations are not a part of the bid package or contract, but are available to all bidders for informational purposes only. There is no warranty or guaranty, either expressed or implied, that the subsurface investigation records will disclose the actual conditions that will be encountered during the performance of the work. Department subsurface investigation results may differ from a bidders independent subsurface investigation due to different sampling techniques, the date of the investigation, etc.. Using or relying on Department subsurface investigations is at the bidder's risk. The Bidder must perform and rely on its independent subsurface investigations made before submitting a bid proposal. Submittal of a bid is an affirmative statement that a independent subsurface investigation was made and Department subsurface investigations were not relied on.

Individual test boring log data included in the Department's subsurface investigation records apply only to that particular boring taken on the date indicated.

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The character of any material or conditions between or around test borings on the date of the site examination are not conclusive.

Submission of a bid waives any potential claim of the above, including a claim of justifiable reliance on such information or materials.

Bidders must not take advantage of an apparent error, omission or ambiguity in any part of the bid package. Upon discovery, immediately notify the Engineer in writing if an error, omission, or ambiguity exists and why it appears erroneous, omitted, or ambiguous. Advise bidders submitting a subcontract quotation of this obligation and clarify their responsibility to include this information with their subcontract quotation. The Department will clarify the error, omission, or ambiguity and, if necessary and possible, issue an addendum to all prospective bidders before opening bid packages.

Do not submit a bid proposal or a subcontract quote without receiving clarification. Failure to provide written notification is a waiver of the error, omission or ambiguity, and additional compensation or contract time will not be allowed.

102.07 PREPARATION OF PROPOSAL. The bid proposal must be submitted on Department furnished forms.

Include a unit and total item price in clearly legible figures for each estimated item of work shown. Obtain the item's total item price by multiplying the unit price by the estimated quantity.

Include a total price in clearly legible figures for lump sum items.

The unit price prevails if a discrepancy exists between the item's unit price and the item's total price. The item total price prevails if the unit price is ambiguous, illegible, unintelligible, or uncertain for any reason, or is omitted, or is the same amount as the item total price. The unit price will then be established by dividing the total item price by the item estimated quantity.

Indicate the choice selected when an item in the bid package permits a choice to be made according to the requirements for the item. The choice made is final and no further choice is permitted.

Submit bids on all alternates when the bid package contains alternates for various items. Contract award will be made on the alternate selected by the Commission.

Submittal of a bid package is evidence that sufficient time was available to:

- A. Adequately prepare a bid proposal;
- B. Conduct a complete investigation of the site of work and all Contract documents.

102.08 REJECTION OF BID PROPOSALS. The Commission reserves the right to reject bid proposals, waive technicalities, or advertise for new proposals.

A bid proposal is irregular and will be rejected as non-responsive if:

- A. Bidder fails to properly sign the bid proposal;
- B. There are unauthorized additions, conditional or alternate bids, or irregularities that make the bid package incomplete, indefinite, or ambiguous;
- C. The proposals for two or more projects advertised separately are connected or made contingent one upon the other so that the proposal for one project

carries a provisional deduction in the bid price on one or more of the other projects;

- D. Any unauthorized provisions are added reserving the right to accept or reject an award or to enter into a contract pursuant to an award;
- E. More than one proposal for the same work from an individual, firm, corporation, partnership, or joint venture under the same or different name is submitted;
- F. Evidence of collusion among bidders exists. Participants in collusion will not receive recognition as bidders, either singly or as a joint venture, for future work of the Department until re-instated as qualified bidders;
- G. A bidder is a participant in more than one proposal for the work contemplated. The Commission will reject all proposals in which the bidder is a participant;
- H. Bidder fails to furnish a signed proposal guaranty in the amount stipulated on the bid proposal form.

A bid proposal is considered irregular and may be rejected as non-responsive if:

- A. The Department furnished bid proposal is not used or is altered;
- B. Bidder fails to include a name and mailing address;
- C. The unit prices contained in the proposal are obviously unbalanced, either in excess of or below the reasonable cost-analysis value;
- D. The proposal figures are not typed or completed in ink or are not legible;
- E. The proposal does not contain a unit and total price for each estimate pay item, except for authorized alternate bid items;
- F. There are changes in the proposal such as erasures, strikeouts, and white-outs that are not initialed in ink;
- G. Non-compliance with Disadvantaged Business Enterprise (DBE) requirements.

102.09 PROPOSAL GUARANTY. Make the proposal guaranty unconditionally payable to the Department. Provide the guaranty by cash, cashier's check, certified check, bank money order, or bank draft with the bid proposal. The guaranty must be drawn and issued by a national banking association located in Montana or by any banking corporation incorporated under the laws of the State, or a bid bond or bonds executed by a surety corporation authorized to do business in the State.

102.10 DELIVERY AND PUBLIC OPENING OF PROPOSALS. Place the bid proposal in a sealed envelope plainly marked to indicate the contents. Mail or deliver to: Montana Department of Transportation, 2701 Prospect Avenue, P.O. Box 201001, Helena, Montana 59620-1001.

Bid proposals will be opened and read publicly at the place, time, and date specified in the " Invitation for Bids".

Deliver by the date and hour set for the opening of bid proposals to the Department officials conducting the bid opening. Bid proposals received after the specified time are returned to the bidder unopened.

The bid opening time is determined by the clock designated by the Department bid opening officials.

Mailed proposals must be received by the Department's official conducting the bid opening before the bid opening time. The Contractor is solely responsible for the proposal's delivery.

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Do not submit bid proposals by facsimile machines.

A prematurely opened bid proposal not properly addressed and identified will be returned to the bidder.

102.11 WITHDRAWAL OR REVISION OF PROPOSALS. Submit withdrawal requests to the Department in writing or telegram before the time set for opening bid proposals. A bidder may withdraw any proposal in person or through an authorized agent before any bid proposal on that project is opened.

Submit written revisions to the Department before the time set for opening of bid proposals as provided for in Subsection 102.10.

102.12 VACANT.

102.13 MATERIALS GUARANTY. The successful bidder may be required to furnish a complete statement of the origin, composition, and manufacture of materials to be used in the construction of the work, together with samples to be tested for conformance with the Contract requirements. The costs of furnishing the statements and samples is to be included in the bid.

102.14 VACANT.

102.15 VENUE. In the event of any dispute concerning a project, whether over its advertisement, bidding, award, execution, or claim, any litigation filed by or against the Department will only have venue in Lewis and Clark County.

102.16 CONSENT TO CONTRACT PROVISIONS. The submission of a bid is an affirmative statement that the bidder consents to all the bid package provisions upon which it has submitted its bid. That consent extends to all portions of the bid package and applies to all the bidder's subcontractors. Do not submit a bid proposal unless consent to all the bid package provisions is given.